

March 27, 2015

NOTICE

TO: THE PUBLIC AND MEMBERS OF THE PRACTICING BAR FOR THE EASTERN AND WESTERN DISTRICTS OF KENTUCKY

Pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 57 of the Federal Rules of Criminal Procedure, the United States District Courts for the Eastern and Western Districts of Kentucky hereby give public notice of the following:

The Joint Local Rules Commission for the Eastern and Western Districts of Kentucky has recommended, and the District Court has authorized for release for a period of public comment through June 1, 2015, the revision of certain Joint Local Rules of Civil Practice and Joint Local Rules of Criminal Practice. Unless otherwise indicated, as seen in this Notice, underlined text is added and ~~struck~~ text is deleted. The proposed revisions are as follows:

A. Subparagraph (b) of LR 83.3 – Attorney Discipline – will be amended as follows:

(b) Discipline By Admitting or Licensing Authority; Procedure.

(1) *Attorney's Duty to Notify.* An attorney practicing before the Court who is publicly reprimanded, suspended or disbarred by any admitting or licensing authority must ~~promptly~~ inform the Clerk in writing of the public reprimand, suspension or disbarment within ten (10) days after the effective date of any such public reprimand, suspension or disbarment.

~~(2) — *Notice to the Attorney.* Upon receipt of documentation demonstrating an attorney has been suspended or disbarred by any admitting or licensing authority, the Court will immediately issue a notice to the attorney containing the following:~~

~~(A) a copy of the documentation evidencing suspension or disbarment; and~~

~~(B) an order to show cause — within thirty (30) days after service of that order — why the attorney should not be disqualified from practicing before the Court. The challenge to the Court's disqualification of the attorney must be based on one of the grounds contained in section (3). The attorney may respond to the show cause order personally or by mail.~~

(2) *Automatic Reciprocal Discipline; Discretion to Enhance Discipline.* Unless otherwise ordered by the Court, any such attorney who has been suspended or disbarred by any admitting or licensing authority, whether by

suspension, revocation, or disbarment, shall automatically forfeit his or her right to practice law before this Court during the same period that such attorney has been prohibited from practicing law by such other licensing authority, or, under the Court's discretion, for a greater period of time. The Clerk of Court shall send a written notice to the attorney, together with a copy of this section of the Local Rules, informing the attorney of the forfeiture of his or her right to practice law before this court. Any failure or delay with regard to the sending of such notice shall not affect the automatic forfeiture provisions of this section.

(3) *Discipline Imposed; Grounds for Challenge.* ~~Thirty (30) days after service of the notice provided in (b)(2) above, the Court will disqualify the attorney from practicing before it unless the Court concludes that the entry of some other order is appropriate. Within thirty (30) days after the effective date of any suspension or disbarment by any admitting or licensing authority, the attorney may file a written challenge to the reciprocal discipline imposed under section (2).~~ To conclude that the entry of some other order is appropriate, the Court must find that the record underlying the attorney's suspension or disbarment clearly indicates that:

(A) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(B) the proof establishing the misconduct was so infirm that the Court could not -- consistent with its duty -- accept the conclusion of the admitting or licensing authority as final;

(C) the Court's disqualification of the attorney would result in grave injustice; or

(D) the Court concludes that the misconduct underlying the attorney's suspension or disbarment warrants substantially different discipline.

(4) *Finality of the Action of the Admitting or Licensing Authority.* Unless the Court determines that one of the grounds contained in (3) above exists, the admitting or licensing authority's final adjudication of attorney misconduct conclusively establishes the misconduct for purposes of this Court's discipline. ~~If the attorney's suspension or disbarment is stayed or is not yet final, this Court's disqualification of the attorney is deferred until the stay expires or the decision becomes final.~~

(5) *Reinstatement.* Upon reinstatement of an attorney by any admitting or licensing authority, the attorney shall provide to the Clerk of Court written notice from the admitting or licensing authority confirming the reinstatement. The Clerk of Court shall then transmit the confirmation to the Chief Judge who shall determine whether the attorney may be reinstated to practice before the Court.

B. Subparagraph (b) of LCrR 57.3 – Attorney Discipline – will be amended as follows:

(b) Discipline By Admitting or Licensing Authority; Procedure.

(1) *Attorney's Duty to Notify.* An attorney practicing before the Court who is publicly reprimanded, suspended or disbarred by any admitting or licensing authority must promptly inform the Clerk in writing of the public reprimand, suspension or disbarment within ten (10) days after the effective date of any such public reprimand, suspension or disbarment.

~~(2) — *Notice to the Attorney.* Upon receipt of documentation demonstrating an attorney has been suspended or disbarred by any admitting or licensing authority, the Court will immediately issue a notice to the attorney containing the following:~~

~~(A) a copy of the documentation evidencing suspension or disbarment; and~~

~~(B) an order to show cause — within thirty (30) days after service of that order — why the attorney should not be disqualified from practicing before the Court. The challenge to the Court's disqualification of the attorney must be based on one of the grounds contained in section (3). The attorney may respond to the show cause order personally or by mail.~~

~~(2) *Automatic Reciprocal Discipline; Discretion to Enhance Discipline.* Unless otherwise ordered by the Court, any such attorney who has been suspended or disbarred by any admitting or licensing authority, whether by suspension, revocation, or disbarment, shall automatically forfeit his or her right to practice law before this Court during the same period that such attorney has been prohibited from practicing law by such other licensing authority, or, under the Court's discretion, for a greater period of time. The Clerk of Court shall send a written notice to the attorney, together with a copy of this section of the Local Rules, informing the attorney of the forfeiture of his or her right to practice law before this court. Any failure or delay with regard to the sending of such notice shall not affect the automatic forfeiture provisions of this section.~~

~~(3) *Discipline Imposed; Grounds for Challenge.* Thirty (30) days after service of the notice provided in (b)(2) above, the Court will disqualify the attorney from practicing before it unless the Court concludes that the entry of some other order is appropriate. Within thirty (30) days after the effective date of any suspension or disbarment by any admitting or licensing authority, the attorney may file a written challenge to the reciprocal discipline imposed under section (2). To conclude that the entry of some other order is appropriate, the Court must find that the record underlying the attorney's suspension or disbarment clearly indicates that:~~

~~(A) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;~~

(B) the proof establishing the misconduct was so infirm that the Court could not -- consistent with its duty -- accept the conclusion of the admitting or licensing authority as final;

(C) the Court's disqualification of the attorney would result in grave injustice; or

(D) the Court concludes that the misconduct underlying the attorney's suspension or disbarment warrants substantially different discipline.

(4) *Finality of the Action of the Admitting or Licensing Authority.*

Unless the Court determines that one of the grounds contained in (3) above exists, the admitting or licensing authority's final adjudication of attorney misconduct conclusively establishes the misconduct for purposes of this Court's discipline. ~~If the attorney's suspension or disbarment is stayed or is not yet final, this Court's disqualification of the attorney is deferred until the stay expires or the decision becomes final.~~

(5) *Reinstatement.* Upon reinstatement of an attorney by any admitting or licensing authority, the attorney shall provide to the Clerk of Court written notice from the admitting or licensing authority confirming the reinstatement. The Clerk of Court shall then transmit the confirmation to the Chief Judge who shall determine whether the attorney may be reinstated to practice before the Court.

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Comments concerning the proposed rule amendments are welcome. Comments must be submitted in writing or via email on or before June 1, 2015 and should be sent to:

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